

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

William Leonard Pickard)

Defendant)

)

v.)

)

Department of Justice) Case No. 11-cv-00443 (DCB)

Defendant)

)

PLAINTIFF'S EXHIBITS OF DEFENDANT'S ANSWERS TO REQUESTS FOR
ADMISSIONS (F.R.Civ.P. 56(c))

Comes now Plaintiff William Leonard Pickard, pro se, in this "Plaintiff's Exhibits of Defendant's Answers to Requests for Admissions," to advise the Court as follows:

1. Plaintiff hereby appends Defendant's answers to Request for Admissions, in support of Plaintiff's accompanying Opposition/Cross Motion to Defendant's Motion for Summary Judgment.
2. These exhibits are filed in accord with F.R.Civ.P 56(c), concerning "answers to interrogatories and admissions on file"; and requiring moving party to identify "portions of the record on file"; see Celotex Corp. v. Catrett, 477 U.S. 317, 322-24, 106 S.Ct. 2548, 91 L.Ed. 2d 265 (1986).

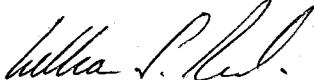
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CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA		
BY		DEPUTY

3. Appended as Exhibit A are the following sets of Defendant's Answers and Objections to Requests for Admissions:

- a. First Set of Requests for Admissions
- b. Second Set of Requests for Admissions
- c. Third Set of Requests for Admissions
- d. Fourth Set of Requests for Admissions

WHEREFORE, Plaintiff submits Defendant's answers to Requests for Admissions in accord with F.R.Civ.P. 56(c) and in support of Plaintiff's accompanying Opposition/Cross Motion submitted on this date.

Respectfully submitted,



William L. Pickard

FRN 82687011

POB 24550

Tucson, AZ 85734

January 2, 2013

EXHIBIT A

1 ANN BIRMINGHAM SCHEEL
2 Acting United States Attorney
3 District of Arizona
4 J. COLE HERNANDEZ
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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

William Leonard Pickard,
Plaintiff,
v.
Department of Justice,
Defendant.

CV-11-443-TUC-DCB

**DEFENDANT'S ANSWERS AND
OBJECTIONS TO PLAINTIFF'S
REQUESTS FOR ADMISSIONS**

COMES NOW Defendant, by and through undersigned counsel, and submits its answers and objections to Plaintiff's request for admissions pursuant to Fed. R. Civ. P. 36.

REQUEST NO. 1

Admit that DEA's search did not locate any DEA Agents Manual subsection 6612.13 ("Risk Assessment Defined") that existed prior to the June 28, 2001 revision of the DEA Agents Manual that inserted by "Supplemental Transmission" subsection 6612.13 into the DEA Agents Manual version labeled "01-03 Agents Manual 6-28-01" (see p. 1 of July 1, 2011 DEA FOIA release).

RESPONSE: Defendant objects to this request for admission to the extent it is irrelevant to the underlying issue in this FOIA case. In a FOIA case, the issue is not whether there

1 might exist any other records possibly responsive to the request, but rather whether the
2 search for responsive records was reasonable. *Citizens Comm'n on Human Rights v.*
3 *FDA*, 45 F.3d 1325, 1328 (9th Cir. 1995.) Plaintiff's request goes to the results of the
4 search rather than the method (reasonableness) of the search. Subject to the forgoing
5 objection, admit.

7 REQUEST NO. 2

8 Admit that DEA's search did not locate any interim policy concerning DEA Agents
9 Manual subsection 6612.13 (labeled "Risk Assessment Defined") that was disseminated to
10 field offices by teletype, cable, memoranda, email or other directives or methods prior to
11 the June 28, 2001 revision of the DEA Agents Manual that inserted by "Supplemental
12 Transmission" subsection 6612.13 into the DEA Agents Manual version labeled "01-3
13 Agents Manual 6-28-0111 (see p. 1 of July 1, 2011 DEA FOIA release).

14
15
16 RESPONSE: Defendant objects to this request for admission to the extent it is irrelevant
17 to the underlying issue in this FOIA case. In a FOIA case, the issue is not whether there
18 might exist any other records possibly responsive to the request, but rather whether the
19 search for responsive records was reasonable. *Citizens Comm'n on Human Rights v.*
20 *FDA*, 45 F.3d 1325, 1328 (9th Cir. 1995.) Plaintiff's request goes to the results of the
21 search rather than the method (reasonableness) of the search. Subject to the forgoing
22 objection, admit.

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1 REQUEST NO. 3

2 Admit that DEA's search did not locate any DEA Agents Manual subsection 6612.32
3 (labeled "Risk Assessment") prior to the June 28, 2001 revision of the DEA Agents
4 Manual that inserted by "Supplemental Transmission" subsection 6612.32 into the DEA
5 Agents Manual version labeled "01-3 Agents Manual 6-28-01" (see p. 1 of July 1, 2011
6 DEA FOIA release).

7 RESPONSE: Defendant objects to this request for admission to the extent it is irrelevant
8 to the underlying issue in this FOIA case. In a FOIA case, the issue is not whether there
9 might exist any other records possibly responsive to the request, but rather whether the
10 search for responsive records was reasonable. *Citizens Comm'n on Human Rights v.*
11 *FDA*, 45 F.3d 1325, 1328 (9th Cir. 1995.) Plaintiff's request goes to the results of the
12 search rather than the method (reasonableness) of the search. Subject to the forgoing
13 objection, admit.

14 REQUEST NO. 4

15 Admit that DEA's search did not locate any interim policy concerning subsection 6612.32
16 ("Risk Assessment") that was disseminated to field offices by teletype, cable, memoranda,
17 email or other directives or method prior to the June 28, 2001 revision of the DEA Agents
18 Manual that inserted by "Supplemental Transmission" subsection 6612.13 into the DEA
19 Agents Manual version labeled "01-3 Agents Manual 6-28-01" (see p. 1 of July 1, 2011
20 DEA FOIA release).

21 RESPONSE: Defendant objects to this request for admission to the extent it is irrelevant
22 to the underlying issue in this FOIA case. In a FOIA case, the issue is not whether there
23

1 might exist any other records possibly responsive to the request, but rather whether the
2 search for responsive records was reasonable. *Citizens Comm'n on Human Rights v.*
3 *FDA*, 45 F.3d 1325, 1328 (9th Cir. 1995.) Plaintiff's request goes to the results of the
4 search rather than the method (reasonableness) of the search. Subject to the forgoing
5 objection, admit.

6
7 Respectfully submitted this 29th day of May, 2012.
8

9
10 ANN BIRMINGHAM SCHEEL
11 Acting United States Attorney
12 District of Arizona

13

14 *s/ J. Cole Hernandez*
15 J. COLE HERNANDEZ
16 Assistant U.S. Attorney
17

18 William Leonard Pickard
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21 P.O. Box 24550
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23 Plaintiff Pro Se
24 *Pamela Vavra*
25 s/ Pamela Vavra
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8 UNITED STATES DISTRICT COURT
9 DISTRICT OF ARIZONA

10
11 William Leonard Pickard,
12 Plaintiff,
13 v.
14 Department of Justice,
15 Defendant.

CV-11-443-TUC-DCB

DEFENDANT'S ANSWERS AND
OBJECTIONS TO PLAINTIFF'S
SECOND SET OF ADMISSIONS

16 COMES NOW Defendant, by and through undersigned counsel, and submits its answers
17 and objections to Plaintiff's request for admissions pursuant to Fed. R. Civ. P. 36.
18

19 REQUEST NO. 1

20 Admit that the DEA FOIA release of July 1, 2011 did not include: a. sections B, C, D and
21 E between pp. 9-10 ("02-02Agents Manual dated "4-24-02"); b. the Table of Contents for
22 the June 28, 2001 DEA Agents Manual revision and referring to subsection 6612.13; and
23 c. the Table of Contents for the April 28, 2002 revision of the DEA Agents Manual and
referring to subsection 6612.13.

24 **RESPONSE:** Admitted.

25 REQUEST NO. 2

26 Admit that DEA field offices, by regulation, directive, interim policy, practice or
27 procedure did not conduct risk assessments in compliance with DEA Agents Manual
28 subsection 6612.13 ("Risk Assessment Defined") and 6612.32 ('Risk Assessment") in the

1 period between the September 10, 1998 revision and the June 28, 2001 revision of the
2 DEA Agents Manual.

3 **OBJECTIONS:** (1). Defendant objects to this request for admission on the basis that it
4 seeks information that is not relevant to any claim or defense, and is not reasonably likely
5 to lead to the discovery of admissible evidence.

6 (2). Defendant also objects on the basis that this request for admission is overly
7 broad and unduly burdensome, in that to acquire sufficient knowledge to respond would
8 require the canvassing of every investigator assigned to every DEA field office and every
9 confidential source file maintained by the office.

10 **RESPONSE:** Notwithstanding and without waiving these objections, to the extent an
11 answer is required, denied.

12 **REQUEST NO. 3**

13 Admit that DEA conducts risk assessments in compliance with DEA Agents Manual
14 subsection 6612.13 ("Risk Assessment Defined") at the time the Confidential Source is
15 first considered for establishment and is reviewed by higher authorities until establishment
16 is approved (see subsection 6612.13).

17 **OBJECTIONS:** (1). Defendant objects to this request for admission on the basis that it
18 seeks information that is not relevant to any claim or defense, and is not reasonably likely
19 to lead to the discovery of admissible evidence.

20 (2). Defendant also objects on the basis that this request for admission is overly
21 broad and unduly burdensome, in that to acquire sufficient knowledge to respond would
22 require the canvassing of every investigator assigned to every DEA field office and every
23 confidential source file maintained by the office.

24 **RESPONSE:** Notwithstanding and without waiving these objections, to the extent an
25 answer is required, denied.

26 **REQUEST NO. 4**

27 Admit that DEA does not conduct risk assessments in compliance with subsection
28 6612.13 ("Risk Assessment Defined") and subsection 6612.32 ("Risk Assessment") after
the initial establishment of the Confidential Source "unless information is received that
alters the balance of the risk and benefit" of utilizing the Confidential Source (see
subsection 6612.13).

1 **OBJECTIONS:** (1). Defendant objects to this request for admission on the basis that it
2 seeks information that is not relevant to any claim or defense, and is not reasonably likely
3 to lead to the discovery of admissible evidence.

4 (2). Defendant also objects on that basis that this request for admission is overly
5 broad and unduly burdensome, in that to acquire sufficient knowledge to respond would
6 require the canvassing of every investigator assigned to every DEA field office and every
7 confidential source file maintained by the office.

8 **RESPONSE:** Notwithstanding and without waiving these objections, to the extent an
9 answer is required, denied.

10 **REQUEST NO. 5**

11 Admit that risk assessments in compliance with subsection 6612.13 ("Risk Assessment
12 Defined") and 6612.32 ("Risk Assessment") are not conducted after deactivation of the
13 Confidential Source unless the Confidential Source is formally proposed for reactivation.

14 **OBJECTIONS:** (1). Defendant objects to this request for admission on the basis that it
15 seeks information that is not relevant to any claim or defense, and is not reasonably likely
16 to lead to the discovery of admissible evidence.

17 (2). Defendant also objects on the basis that this request for admission is overly
18 broad and unduly burdensome, in that to acquire sufficient knowledge to respond would
19 require the canvassing of every investigator assigned to every DEA field office and every
20 confidential source file maintained by the office.

21 **RESPONSE:** Notwithstanding and without waiving these objections, to the extent an
22 answer is required, denied.

23 **REQUEST NO. 6**

24 Admit that the DEA FOIA release of July 1, 2011, while including the August 22, 2006
25 teletype and interim policy regarding the new DEA form 512(A) ("Risk Assessment"), did
26 not include records of any field offices or divisions responsive to the FOIA request for the
27 "specific form and formatting utilized or required for compliance with section 6612.13
28 and the risk assessment factors" (see SAC, Doc. 53, pgr. 63) prior to the interim policy of
29 August 22, 2006.

30 **RESPONSE:** Admitted that the DEA release did not include any records of any field
31 office or division. To the remainder, the request for admission calls for legal conclusions
32 for which no answer is required. To the extent that an answer is required, denied.

33 **REQUEST NO. 7**

1 Admit that DEA - in response to the FOIA request for "Any and all" records pertaining to
2 the "implementation and use" of DEA Agents Manual subsection 6612.13 including "but
3 not limited to" (listing specific categories a-c) (see SAC, Doc. 53, pgr. 8) - did not search
4 for records of any field offices or divisions pertaining to any Confidential Source, e.g. the
5 "implementation and use" of subsection 6612.13 of the specific informant described in the
6 Second Amended Complaint (SAC, Id. at pgr. 5a-c).

7 **OBJECTIONS:** (1). Defendant objects to this request for admission on the basis that it
8 seeks information that is not relevant, and not likely to lead to the discovery of admissible
9 evidence.

10 (2). Defendant also objects on the basis that this request for admission is overly
11 broad and unduly burdensome, in that to acquire sufficient knowledge to respond would
12 require the canvassing of every investigator assigned to every DEA field office and every
13 confidential source file maintained by the office.

14 **RESPONSE:** Notwithstanding and without waiving these objections, admitted.

15 **REQUEST NO. 8**

16 Admit that it is DEA's contention that the FOIA release for "Any and all records []" is
17 overbroad, and would require a search of all field offices for all records of cases in which
18 a risk assessment in compliance with the DEA Agents Manual subsections 6612.13 ("Risk
19 Assessment Defined") and 6612.32 ("Risk Assessment") was conducted during the
20 establishment of a Confidential Source.

21 **RESPONSE:** Denied.

22 **REQUEST NO. 9**

23 Admit that on August 18, 2011 and again on May 29, 2011 Plaintiff submitted letters to
24 AUSAs Gonzalez and Frank, respectively, requesting stipulations and requesting a
25 narrowing of the search to the San Francisco field office and the Confidential Source
26 described in the Second Amended Complaint (SAC, rd. at pgr. 5a-c).

27 **RESPONSE:** Insufficient information is available to answer at this time.

28 **REQUEST NO. 10**

29 Admit that agents of the San Francisco DEA office conducted a risk assessment in
30 compliance with subsection 6612.13 of the DEA Agents Manual prior to the June 28,
31 2001 revision of the DEA Agents Manual to first include section 6612.13 ("Risk
32 Assessment Defined").

1 **OBJECTIONS:** (1). Defendant objects to the request for admission on the basis that it
2 seeks information that is not relevant, and not likely to lead to the discovery of admissible
3 evidence.

4 (2). Defendant also objects on that basis that this request for admission is overly
5 broad and unduly burdensome, in that to acquire sufficient knowledge to respond would
6 require the canvassing of every investigator assigned to every DEA field office and every
7 confidential source file maintained by the office.

8 **RESPONSE:** Notwithstanding and without waiving these objections, to the extent an
9 answer is required, denied.

10 The above responses to Plaintiff's admissions are true and correct to the best of my
11 knowledge and belief.



12 WILLIAM C. LITTLE, JR., ESQ.

13 Office of Chief Counsel, Administrative
14 Law Section, Drug Enforcement
15 Administration

16 Respectfully submitted this 27th day of July, 2012.

17 JOHN S. LEONARDO
18 United States Attorney
19 District of Arizona

20 s/ Gerald S. Frank
21 GERALD S. FRANK
22 Assistant U.S. Attorney

23 Copy of the foregoing served electronically or
24 By other means this 27th day of July, 2012, to:

25 William Leonard Pickard
26 #82687-011
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30 Plaintiff Pro Se

31 s/ Lisa Startup

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

William Leonard Pickard,
Plaintiff,
v.
Department of Justice,
Defendant.

CV-11-443-TUC-DCB

**DEFENDANT'S ANSWER TO
REQUEST NO. 9 OF PLAINTIFF'S
SECOND SET OF ADMISSIONS**

COMES NOW Defendant, by and through undersigned counsel, and submits its answers and objections to Plaintiff's request for admissions pursuant to Fed. R. Civ. P. 36.

REQUEST NO. 9

Admit that on August 18, 2011 and again on May 29, 2011 Plaintiff submitted letters to AUSAs Gonzalez and Frank, respectively, requesting stipulations and requesting a narrowing of the search to the San Francisco field office and the Confidential Source described in the Second Amended Complaint (SAC, rd. at pgr. Sa-c).

RESPONSE:

Deny. Admit that a letter dated August 18, 2011, to Mr. Hernandez was received on or about August 22, 2011, and a letter to Mr. Frank dated June 28, 2012, was received on or about July 3, 2012. Each letter included requests for stipulations and the narrowing of the search.

Respectfully submitted this 27th day of July, 2012.

JOHN S. LEONARDO
United States Attorney
District of Arizona

GERALD S. FRANK
Assistant U.S. Attorney

Copy of the foregoing served by U.S. Mail
this 27th day of July, 2012, to:

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Attorneys for Defendant

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9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

13 WILLIAM LEONARD PICKARD,)
14 Plaintiff,)
15 v.)
16 DEPARTMENT OF JUSTICE,)
17 Defendant.)
18

CV-11-443-TUC-DCB

DEFENDANT'S ANSWERS AND
OBJECTIONS TO PLAINTIFF'S
THIRD REQUESTS FOR
ADMISSIONS

19 COMES NOW Defendant, by and through undersigned counsel, and submits its answers
and objections to Plaintiff's third request for admissions pursuant to Fed. R. Civ. P. 36.

21 REQUEST NO. 1:

22 Admit that "risk assessments" in accord with DEA Agents Manual subsections 6612.13 ("Risk
23 Assessment Defined") and 6612.32 ("Risk Assessment") are maintained in field office records
24 systems.

25 **OBJECTION:** (1) Defendant objects to this request for admissions on the basis that it seeks
26 information that is not relevant to any claim or defense, and not reasonably likely to lead to the
27 discovery of any admissible evidence.

1 **RESPONSE:** Admit.

2

3 **REQUEST NO. 2:**

4

5 Admit that copies of "risk assessments" in accord with DEA Agents Manual subsections
6 6612.13 ("Risk Assessment Defined") and 6612.32 ("Risk Assessment") are maintained
7 in DEA HQ records systems.

8

9 **OBJECTION:** (1) Defendant objects to this request for admissions on the basis that it seeks
10 information that is not relevant to any claim or defense, and not reasonably likely to lead to the
11 discovery of any admissible evidence.

12

13

RESPONSE: Admit.

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REQUEST NO. 3:

16

17 Admit that copies of "risk assessments" in accord with DEA Agents Manual subsections
18 6612.13 ("Risk Assessment Defined") and 6612.32 ("Risk Assessment") are maintained
19 in Confidential Sources System (CSS) records.

20

OBJECTION: (1) Defendant objects to this request for admissions on the basis that it seeks
21 information that is not relevant to any claim or defense, and not reasonably likely to lead to the
22 discovery of any admissible evidence.

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RESPONSE: Admit.

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1 REQUEST NO. 4:

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3 Admit that copies of "risk assessments" in accord with DEA Agents Manual subsections

4 6612.13 ("Risk Assessment Defined") and 6612.32 ("Risk Assessment") are maintained -

5 in the event of issues involving misconduct - in DEA's Planning and Inspection Division

6 or the Office of Professional Responsibility records systems.

7

8 **OBJECTION:** (1) Defendant objects to this request for admissions on the basis that it seeks

9 information that is not relevant to any claim or defense, and not reasonably likely to lead to the

10 discovery of any admissible evidence.

11

12 **RESPONSE:** Admit.

13

14 REQUEST NO. 5:

15

16 Admit that changes in the DEA Agents Manual regarding DEA Agents Manual

17 subsections 6612.13 ("Risk Assessment Defined") and 6612.32 ("Risk Assessment")

18 were promulgated to field offices by fax, email or other directives other than by

19 "Transmission" or "Supplemental Transmission" after the September 10, 1998

20 "Supplemental Transmittal" ("Transmittal Number: 98-8") and before the June 28, 2001

21 "Supplemental Transmittal" ("Transmittal Number: 01-3").

22

23

24 **OBJECTION:** (1) Defendant objects to this request for admissions on the basis that it seeks

25 information that is not relevant to any claim or defense, and not reasonably likely to lead to the

26 discovery of any admissible evidence.

27

28

1 **RESPONSE:** Notwithstanding and without waiving these objections, to the extent an answer is
2 required, denied. Changes to the DEA Agents Manual are promulgated to field office by any
3 means that insures receipt of the "Supplemental Transmission" including fax or e-mail.
4 "Supplemental Transmittal" is the titled of the cover sheet that is used by DEA to identify the
5 change(s) being made for records management purposes.

6

7 REQUEST NO. 6:

8

9 Admit that - while DEA responded to Request for Admissions (Set No.2, Requests 2, 3, 4, 5, 7,
10 10) by objecting in part that acquiring "sufficient knowledge to respond would require the
11 canvassing of every investigator assigned to every DEA field office and every confidential
12 source file maintained by the office" - it is DEA's contention that, unless ordered to do so by
13 this Court - it will not contact any filed office or special agent or search any single Confidential
14 Source file in response to any discovery request, or request for stipulations pertaining to the
15 FOIA request of April 7, 2010 (Req. NO. 10-0068-F) for "any and all" records pertaining to the
16 "implementation and use" of DEA Agents Manual section 6612.13, even though specific records
17 were cited in the discovery requests, in the Second Amended Complaint (Doc. 53, pgr. 5.a-c, p.
18 2-3) and in letters from Plaintiff to opposing counsel dated May 29, 2012 and June 28, 2012 and
19 faxed on July 3, 2012.

20

21

22 **RESPONSE:** This request for admissions is argumentative and requires no response. The
23 extent a response is required, it is denied.

24

25 REQUEST NO. 7:

26

27 Admit that DEA's failure to provide missing records in the FOIA release as admitted in
28 Defendant's response to Request for Admissions (Set 2, Request No.1) constitutes an

1 inadequate search.

2 **RESPONSE:** Denied.

3

4 REQUEST NO. 8:

5

6 Admit that an interim policy citing DEA Agents Manual subsections 6612.13 ("Risk Assessment
7 Defined") and 6612.32 ("Risk Assessment") was sent to field offices or divisions by teletype,
8 cable, memoranda, Transmission, Supplemental Transmission or other directive after the
9 September 10, 1998 revision of the DEA Agents Manual and before the June 28, 2001 revision.
10

11

12 **OBJECTION:** (1) Defendant objects to this request for admissions on the basis that it seeks
13 information that is not relevant to any claim or defense, and not reasonably likely to lead to the
14 discovery of any admissible evidence.
15

16 **RESPONSE:** Denied

17 REQUEST NO. 9:

18

19 Admit that no interim policy citing DEA Agents Manual subsections 6612.13 ("Risk
20 Assessment Defined") and 6612.32 ("Risk Assessment") was sent to field offices or divisions by
21 teletype, cable, memoranda, Transmission, Supplemental Transmission or other directive after
22 the September 10, 1998 revision of the DEA Agents Manual and before the June 28, 2001
23 revision.
24

25
26 **OBJECTION:** (1) Defendant objects to this request for admissions on the basis that it seeks
27 information that is not relevant to any claim or defense, and not reasonably likely to lead to the
28 discovery of any admissible evidence.

1 **RESPONSE:** Notwithstanding and without waiving these objections, affiant has insufficient
2 knowledge to admit or deny. To the extent an answer is required, denied.
3

4 **REQUEST NO. 10:**

5
6 Admit that Document 72 in Pickard v. DOJ (Case NO. 11-CV-00443-DCB) (D. Arizona) ("First
7 Declaration of William Leonard Pickard) contains as Exhibit 1 an authenticated copy of a
8 document entered in the proceedings of United States v. Pickard (5:00-cr-40104-RDR) (D.
9 Kansas) as Document 584 and which contains as a Government exhibit the DEA Agents Manual
10 section 6612 ("Confidential Sources") as revised on September 10, 1998.
11

12 **OBJECTION:** (1) Defendant objects to this request for admissions on the basis that it seeks
13 information that is not relevant to any claim or defense, and not reasonably likely to lead to the
14 discovery of any admissible evidence.
15

16 **RESPONSE:** Denied. Defendant admits that Plaintiff filed in this matter a copy of Document
17 584 filed in the District of Kansas in Case No. 5:00-CR-40104-RDR, the fifth page of which
18 bears a clerks' certification of electronic filing. The document following 584 is a copy of
19 Document 584-2 consisting of 46 of 47 pages of Subchapter 661, Information Sources which
20 includes, 6612 Confidential Sources of the DEA Agents manual, 09/10/98. Page 18 of Doc. 584-
21 2 is missing.
22

23
24 **REQUEST NO. 11:**

25
26 Admit that in the authenticated Document described in Request No. 10 (the Government exhibit
27 of the DEA Agents Manual section 6612 ("Confidential Sources") as revised on September 10,
28 1998) there is no "risk assessment" or "eleven risk Factors" in accord with DEA Agents Manual

1 subsections 6612.13 ("Risk Assessment Defined") and 6612.32 ("Risk Assessment").

2

3 **OBJECTION:** (1) Defendant objects to this request for admissions on the basis that it seek
4 information that is not relevant to any claim or defense, and not reasonably likely to lead to the
5 discovery of any admissible evidence. Moreover, the request is argumentative inasmuch as the
6 content of the document speaks for itself.

7

8 **RESPONSE:** Notwithstanding and without waiving these objections, to the extent that DEA
9 Agents Manual section 6612 ("Confidential Sources") was revised by "Supplemental
10 Transmittal" on September 10, 1998), admit.

11

12 The above responses to Plaintiff's Request for Admissions are true and correct to the best
13 of my knowledge and belief.

14

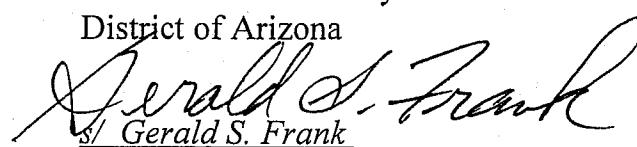
15

16 WILLIAM C. LITTLE, JR., ESQ.
17 Office of Chief Counsel,
18 Administrative Law Section, Drug
19 Enforcement Administration

20 Respectfully submitted this day of September, 2012.

21

22 JOHN S. LEONARDO
23 United States Attorney
24 District of Arizona

25 
26 *Gerald S. Frank*
27 GERALD S. FRANK
28 Assistant U.S. Attorney

1 Copy of the foregoing served by U. S. mail
2 this day of September, 2012, to:

3 William Leonard Pickard
4 #82687-011
U.S. Penitentiary - Tucson

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8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 OAKLAND DIVISION

11 WILLIAM LEONARD PICKARD,

12 Plaintiff,

13 v.

14 DEPARTMENT OF JUSTICE,

15 Defendant.

16) CV-11-443-TUC-DCB
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DEFENDANT'S ANSWERS AND
OBJECTIONS TO PLAINTIFF'S
FOURTH REQUESTS FOR
ADMISSIONS

22 COMES NOW Defendant, by and through undersigned counsel, and submits its answers
23 and objections to Plaintiff's third request for admissions pursuant to Fed. R. Civ. P. 36.

22 REQUEST NO. 1:

23 Admit Gordon Todd Skinner (CS-01-101938) has been officially confirmed as an informant in
24 accord with 5 USC 552(c) (2) (See Pickard v. DOJ, 653 F.3d 782 (9th Cir. July 27, 2011)).

26 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to
27 information regarding a confidential source that is privileged.

28 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not

1 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any
2 admissible evidence.

3

4 **RESPONSE:** Admit that an individual by the name of Gordon Todd Skinner has been officially
5 confirmed as an informant in accord with 5 USC 552(c) (2) (See Pickard v. DOJ, 653 F.3d 782
6 (9th Cir. July 27, 2011). Deny that the confidential source identifying number CS-01-101938 has
7 been officially confirmed as informant number in accord with 5 USC 552(c) (2).

8

9 **REQUEST NO. 2:**

10

11 Admit that San Francisco DEA agents ASAC Lowrey Leong and G/S Steven Horn - as noted in
12 the Second Amended Complaint in Pickard v. DOJ (11-CV-00443-DCB, D. Arizona, Doc. 53,
13 pgr.5.a-c, p. 2-3) - conducted a "risk assessment" in "compliance with DEA Agents Manual
14 section 6612.13" on an informant, in this instance Gordon Todd Skinner (CS-01-101938) as
15 referred to in district court decisions citing the "risk assessment file (RA file)" and "Confidential
16 Source file (CS file" in United States v. Pickard (5:00-cr-40104-RDR) (D. Kansas, 2003) (and
17 see reference to Kansas district court copy of Skinner's "confidential informant file" in Pickard v.
18 DOJ, 653 F.3d 782 (9th Cir. July 27, 2011).
19

20

21 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to
22 information regarding a confidential source that is privileged.

23 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not
24 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any
25 admissible evidence.

26

27 **RESPONSE:** None at this time.

28

1

2 REQUEST NO. 3:

3

4 Admit that San Francisco DEA agent Karl Nichols provided Skinner's "CI File" containing a
5 "risk assessment" to AUSA Gregory Hough on or about March 3-4, 2001 for sealing by the
6 United States District Court in the District of Kansas in United States v. Pickard (5:00-40401-
7 RDR) (See March 3, 2003 colloquy, Id., Doc. 657, p. 4-7; and see Transcript, March 3, 2003 CR
8 4:11-24, 5:20, 6:4, 7:4, 8:23; and see March 4, 2003 CR 93:12, In 11-25).

9 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to
10 information regarding a confidential source that is privileged.

11 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not
12 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any
13 admissible evidence.

14 **RESPONSE:** None at this time.

15 REQUEST NO. 4:

16 Admit that copies of the sealed "CI File" containing the "risk assessment" were made available
17 for examination by defense counsel without a protective order preventing dissemination in
18 United States v. Pickard (5:00-40401-RDR) (D. Kansas, 2003) (see Id., Doc. 657 describing in
19 detail contents of "CI File" containing "risk assessment"; and see Id., Order, Doc. 588, August
20 15, 2008 noting provision of file to defense counsel).

21 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to
22 information regarding a confidential source that is privileged.

23 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not
24 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any
25 admissible evidence.

26

27 **RESPONSE:** None at this time.

28

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2 **REQUEST NO. 5:**
3

4 Admit that - although the Second Amended Complaint in Pickard v. DOJ (11-CV-00443-DCB,
5 D. Arizona, Doc. 53, pgr. 5.a-c, p. 2-3) referred to a specific "risk assessment" conducted in the
6 San Francisco DEA office, and Plaintiff's letters of May 29, 2012 and May 31, 2012 and fax of
7 July 3, 2012 included a request for stipulations for narrowing of the search for "any and all"
8 records pertaining to the "implementation and use" of DEA Agents Manual section 6612.13 to
9 only the records of the informant Gordon Todd Skinner (CS-01-101938) - it is DEA's contention
10 that it will not respond to the request for stipulations or search for records of Gordon Todd
11 Skinner in the absence of a Court order compelling the search.
12

13 **RESPONSE:** None at this time.
14

15 **REQUEST NO. 6:**
16

17 Admit that Gordon Todd Skinner (CS-01-101938) was established as an informant between the
18 October 19, 2000 signing of the DEA Confidential Source Agreement Form and the January 19,
19 2001 Quarterly Management Review (see sealed district court "cr File" containing the "risk
assessment"; and see DEA records).

20 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to
21 information regarding a confidential source that is privileged.

22 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not
23 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any
24 admissible evidence.

25
26 **RESPONSE:** None at this time.
27

1 REQUEST NO. 7:

2

3 Admit the "risk assessment" of Gordon Todd Skinner (CS-01-101938) in accord with DEA
4 Agents Manual section 6612.13 was conducted during his establishment as an informant and
5 before his assignment of the CS number (CS-01-101938).

6 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to
7 information regarding a confidential source that is privileged.

8 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not
9 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any
10 admissible evidence.

11

12 **RESPONSE:** None at this time.

13

14

15 REQUEST NO. 8:

16

17 Admit Skinner's "risk assessment" in accord with DEA Agents Manual 6612.13 was conducted
18 before January 19, 2001.

19 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to
20 information regarding a confidential source that is privileged.

21 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not
22 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any
23 admissible evidence.

24

25 **RESPONSE:** None at this time.

26

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28

1 REQUEST NO. 9.

2

3 Admit that the "risk assessment" of Gordon Todd Skinner (CS-01-101938) in accord with DEA
4 Agents Manual section 6612.13 was conducted after the January 19, 2001 Quarterly Management
5 Review and before Skinner's deactivation on June 27, 2001 (See CS File No. CS-01-101938,
6 titled "Cooperating Source" and Block 10, "Re: Deactivation of CS-01-101938).

7

8 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to
9 information regarding a confidential source that is privileged.

10

11

12 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not
13 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any
14 admissible evidence.

15

16 **RESPONSE:** None at this time.

17

18 REQUEST NO. 10:

19

20 Admit the "risk assessment" of Gordon Todd Skinner (CS-01-101938) in accord with DEA
21 Agents Manual section 6612.13 was conducted by ASAC Lowrey Leong and G/S Steven Horn.

22

23

24 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to
25 information regarding a confidential source that is privileged.

26 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not
27 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any
28 admissible evidence.

29

30 **RESPONSE:** None at this time.

1 REQUEST NO. 11:

2

3 Admit the written "risk assessment" of Gordon Todd Skinner (CS-01-101938) in accord with
4 DEA Agents Manual section 6612.13 was prepared prior to his establishment as CS-01-101938.

5

6 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to
7 information regarding a confidential source that is privileged.

8 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not
9 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any
10 admissible evidence.

11

12 **RESPONSE:** None at this time.

13

14

15 REQUEST NO. 12:

16

17 Admit the written "risk assessment" of Gordon Todd Skinner (CS-01-101938) in accord with
18 DEA Agents Manual section 6612.13 was prepared after his establishment as CS-01-101938 but
before his deactivation on June 27, 2001.

19

20 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to
21 information regarding a confidential source that is privileged.

22 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not
23 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any
24 admissible evidence.

25

26 **RESPONSE:** None at this time.

27

28

1 REQUEST NO. 13.

2

3 Admit the written "risk assessment" of Gordon Todd Skinner (CS-01-101938) in accord with
4 DEA Agents Manual section 6612.13 was prepared after his deactivation as an informant on June
27, 2001.

5

6 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to
7 information regarding a confidential source that is privileged.

8 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not
9 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any
10 admissible evidence.

11

12 **RESPONSE:** None at this time.

13

14

15 REQUEST NO. 14:

16

17 Admit that "risk assessments" in accord with DEA Agents Manual section 6612.13 after the first
18 revision of the DEA Agents Manual on June 28, 2001 do not contain among the listed factors any
19 factor described as "Individual's Social Status."

20

21 **RESPONSE:** Admit.

22

23 REQUEST NO. 15:

24

25 Admit that the "risk assessment" sealed by the district court in United States v. Pickard (5:00-
26 40401-RDR) (D. Kansas, 2003) is an authentic "risk assessment" prepared during the
27 establishment of Gordon Todd Skinner (CS-01-101938) as an informant between the signing of
28 the Confidential Source Agreement Form on October 19, 2000 and the first Quarterly
Management Review of January 19, 2001 (see Id., Doc. 657 describing in detail contents of "CI
File" containing "risk assessment").

1 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to
2 information regarding a confidential source that is privileged.
3

4 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not
5 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any
6 admissible evidence.
7

8 **RESPONSE:** None at this time.
9

10 **REQUEST NO. 16:**
11

12 Admit that the "risk assessment" sealed by the district court in United States v. Pickard (5:00-
13 40401-RDR) (D. Kansas, 2003) is not an authentic "risk assessment" prepared during the
14 establishment of Gordon Todd Skinner (CS-01-101938) as an informant between the signing of
15 the Confidential Source Agreement Form on October 19, 2000 and the first Quarterly
16 Management Review of January 19, 2001 (see *Id.*, Doc. 657 describing in detail contents of "CI
17 File" containing "risk assessment").
18

19 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to
20 information regarding a confidential source that is privileged.
21 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not
22 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any
23 admissible evidence.
24

25 **RESPONSE:** None at this time.
26

27 The above responses to Plaintiff's Interrogatories are true and correct to the best of my
28 knowledge and belief.
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William C. Little, Jr., Esq.

Office of Chief Counsel,
Administrative Law Section, Drug
Enforcement Administration

Respectfully submitted this ^{24th} day of September, 2012.

JOHN S. LEONARDO
United States Attorney
District of Arizona

Gerald S. Frank
s/
GERALD S. FRANK
Assistant U.S. Attorney

Copy of the foregoing served by U. S. mail
this ²⁷ day of ~~October~~ ^{September}, 2012, to:

William Leonard Pickard
#82687-011
U.S. Penitentiary - Tucson

CERTIFICATE OF SERVICE

I hereby certify that on January 2, 2013 I placed into institutional mail first class postage prepaid the attached "Plaintiff's Exhibits ..." addressed to the Clerk of Court, United States District Court, 405 W. Congress St., Tucson, AZ 85734 and a copy to AUSA Gerald Frank, USAO at the same address.

(signed)



William Leonard Pickard